

CHAPTER 13: DOCUMENT CUSTODIANS — ELIGIBILITY AND RESPONSIBILITIES

13-1: OVERVIEW OF CHAPTER

Documents relating to the pooled mortgages must be held by a document custodian on Ginnie Mae's behalf for the life of the pool or loan package. It is the issuer's responsibility to arrange, prior to submission of a pool or loan package for processing, for an eligible institution to serve as document custodian. This chapter describes the eligibility requirements for document custodians and briefly outlines their responsibilities for document review, pool or loan package certification, and ongoing document retention, protection, and management.

Detailed instructions can be found in the Ginnie Mae Document Custodian Manual (Appendix V-1). In the event of a conflict between the provisions of the Guide and the manual, this Guide shall govern.

13-2: DOCUMENT CUSTODIAN'S ELIGIBILITY REQUIREMENTS

The document custodian works under direct contract with the issuer. While an issuer may use different document custodians for different pools or loan packages, each pool or loan package must have only one document custodian.

(A) General Eligibility Requirements

In order to become a document custodian, an institution must meet the eligibility requirements stated in Chapter 2 of the Document Custodian Manual (Appendix V-1), which dictate that the institution:

- (1) be a financial institution regulated by the Federal Deposit Insurance Corporation (FDIC), the Federal Reserve System, the Office of the Comptroller of the Currency of the U.S., the Office of Thrift Supervision, the National Credit Union Administration (NCUA), or a Federal Home Loan Bank;
- (2) maintain physically secure, minimum 1-1/2 hour fire resistant storage facilities;
- (3) employ knowledgeable personnel;
- (4) meet minimum Ginnie Mae financial requirements;
- (5) maintain minimum insurance coverage requirements;
- (6) establish and follow written procedures relating to its responsibilities as document custodian; and

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- (7) comply with other requirements that Ginnie Mae may find necessary.

In addition to the eligibility requirements listed above, the document custodian must maintain documentation in its files as evidence of its continuing compliance with the Ginnie Mae requirements described in Chapter 2 of the Document Custodian Manual (Appendix V-1).

(B) Master Custodial Agreement

The institution must enter into a Master Custodial Agreement, form HUD 11715 (Appendix III-4) with each issuer for which it serves as document custodian. Renewal Master Agreements must be submitted annually by January 1 to the PPA.

(C) Removal of Document Custodian From Participation

A document custodian may be removed from participation in the Ginnie Mae MBS Programs for any of the following reasons:

- (1) failure to meet any of the general eligibility requirements;
- (2) failure to comply with the provisions of this Ginnie Mae MBS Guide or the Document Custodian Manual;
- (3) failure to conduct its business operations in accordance with industry practice, ethics, and standards, as determined in Ginnie Mae's sole discretion;
- (4) failure to turn over the custodial documents to Ginnie Mae or Ginnie Mae's agents immediately upon receipt of notice in the event of the default of a Ginnie Mae issuer; or
- (5) any reason Ginnie Mae determines in its sole discretion is necessary to protect the safety and soundness of the Ginnie Mae MBS Program.

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A document custodian may be removed from participation in the Ginnie Mae programs upon written notice from Ginnie Mae, which will state the reasons for the removal. A document custodian will bear the risk of all losses associated with a removal by Ginnie Mae. In the event of removal, a document custodian will have the opportunity to submit a written presentation to the President of Ginnie Mae in support of a request for reinstatement. A determination by the President of Ginnie Mae will exhaust the administrative remedies of the document custodian.

After a document custodian has been removed from participation in the Ginnie Mae programs, it may submit a written request to Ginnie Mae's Office of Program Administration (see Addresses) to be re-approved to serve as a document custodian. Approval of the request will be at the sole discretion of Ginnie Mae and upon terms that Ginnie Mae deems appropriate.

(D) Requirements for Related-Party Document Custodians

Related-party document custodians are subject to additional requirements. A related-party document custodian is defined as either the issuer itself acting as the document custodian (self-custody) or an affiliate of the issuer acting as the document custodian. The additional requirements include:

(1) Self-custody:

The institution must maintain custody of Ginnie Mae documents in a trust department that is physically separate from the servicing area and that maintains separate personnel, files, and operations.

The institution must have obtained prior approval from its primary regulator to exercise fiduciary powers. These fiduciary powers must include ordinary trust services, such as personal trust services, personal representative services (executor), guardianship, custodian services, and/or investment advisory services offered to the public, and may not be limited to maintaining custody of documents for Ginnie Mae issuers.

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Section 13-2(D)(1) **(continued)**

The trust service function must be subject to periodic review and inspection by the primary regulator.

(2) Affiliated document custodian:

The institution must either (a) meet all of the requirements of Section 13-2(A) and maintain custody of the Ginnie Mae documents in a separate trust department, or (b) if Ginnie Mae documents are not maintained in a separate trust department, provide evidence satisfactory to Ginnie Mae that the issuer and the affiliated document custodian are vertically independent.

The document custodial function must be subject to periodic review and inspection by the primary regulator.

(E) Document Custodian Identification Number

Before executing a Master Custodial Agreement, an institution must obtain a Ginnie Mae document custodian identification number as specified in Chapter 2-E of the Document Custodian Manual (Appendix V-1). The identification number must be placed on all documents on which the document custodian's name appears.

13-3: POOL AND LOAN PACKAGE CERTIFICATION

The document custodian is required to review and certify for each pool and loan package that the loan and pool or loan package documents placed in its control completely and accurately represent the pool or loan package in accordance with Ginnie Mae requirements and that the documents are consistent with the related Schedule of Pooled Mortgages, form HUD 11706 (Appendix III-7).

For single family and manufactured home pools and loan packages, the document custodian, by an initial certification, certifies to Ginnie Mae that the issuer has submitted the minimum loan and pool or loan package documents required to allow a Ginnie Mae MBS to be issued. By a final certification, the document custodian certifies to Ginnie Mae that the issuer has submitted all required loan documents in correct form. Final certification of a single family or manufactured home pool or loan package must be completed no later than 12 months after the issue date of the related securities.

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Section 13-3 (continued)

For multifamily pools, the document custodian does not issue an initial certification but instead provides a final certification of each pool to Ginnie Mae prior to issuance of the securities. Instructions for completing the certification for multifamily pools are in Sections 31-11 and 32-8.

For all pools and loan packages, the document custodian, by a recertification, certifies in connection with a pool or loan package that is transferred either to a new issuer or a new document custodian that all required loan documents are present and in good form. If a single family or manufactured home pool or loan package has received final certification before the transfer, recertification must occur no later than 12 months after the transfer. If a single family or manufactured home pool or loan package has not received final certification prior to transfer, recertification must occur at the same time final certification is due. Additional requirements relating to pool and loan package certification are set out in Chapter 11.

13-4: DOCUMENT REVIEW

In connection with initial certification, final certification, and recertification, the document custodian reviews documents submitted in accordance with the requirements of the Document Custodian Manual.

(A) Initial Certification

Before completing the initial certification on the back of the Schedule of Pooled Mortgages, the document custodian must review the submitted documents in accordance with Sections 3-C-2, 4-C-2, 5-C, or 6-C of the Document Custodian Manual, as appropriate (Appendix V-1). The list of loans on the Schedule of Pooled Mortgages must be used as a control in determining whether the documents properly relate to the pooled loans.

The documents that must be received and reviewed for initial certification are:

- (1) the Master Custodial Agreement, form HUD 11715 (Appendix III-4), unless an appropriate Master Custodial Agreement is on file with the PPA for the current calendar year;
- (2) the Schedule of Pooled Mortgages, form HUD 11706 (Appendix III-7);

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- (3) an original Certification and Agreement, form HUD 11711-B (Appendix III-5) and, if the form HUD 11711-B indicates that a release of security interest is required, an original Release of Security Interest, form HUD 11711-A (Appendix III-5), executed by each secured party for the pooled loans in which it has a security interest;
- (4) for each pooled mortgage, an original note or other evidence of indebtedness endorsed in blank and without recourse. Endorsement in blank is not required when MERS is designated in the security instrument as the original mortgagee or the nominee of the original mortgagee;
- (5) for each pooled mortgage, if the issuer did not originate the loan, interim assignments necessary to show a complete chain of title from the originating mortgagee to the issuer. If the loan is registered with MERS, the issuer must provide a complete chain of interim assignments from the origination of the loan to its assignment to MERS. If the loan was originated with MERS as the original mortgagee (MOM), an interim assignment is not required. If state law requires recordation, the interim assignments must be recorded (or must have been transmitted by the issuer for recordation) in order to make the assignment valid against all lien holders. Each interim assignment must be either an original or a copy certified by the recording clerk. Ginnie Mae will accept typographical errors and other minor mistakes on an interim assignment if the recording reference is correct. If the original recorded interim assignment has been lost, a copy is acceptable if it clearly shows evidence of recordation. If the interim assignments have been transmitted for recordation, the issuer must provide to the document custodian a written certification to that effect;

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- (6) for each pooled mortgage, an executed but unrecorded assignment of the mortgage to Ginnie Mae in recordable form; blanket assignments to Ginnie Mae are acceptable, but only to the extent that the jurisdiction in question accepts blanket assignments and the blanket assignments apply to mortgages in the same pool or loan package and recording jurisdictions. If the mortgage is registered with MERS, the issuer is not required to provide the document custodian with an assignment to Ginnie Mae; and
- (7) if a section 203(k) loan is included in the pool or loan package and the borrower is a state or local housing agency or nonprofit housing or development agency, a copy of the FHA letter approving the affordable housing program of the agency borrower; the document custodian must retain the FHA letter in the pool master file for the life of the loan.

(B) Final Certification

Before completing the final certification on the back of the Schedule of Pooled Mortgages, the document custodian must review the submitted documents in accordance with Section 3-D-2, 4-D-2, 5-C-3, or 6-C-3 of the Document Custodian Manual, as appropriate (Appendix V-1). The list of loans on the Schedule of Pooled Mortgages must be used as a control in determining that the documents properly relate to the pooled loans.

The issuer may forward the documents required for final certification with respect to a particular loan file to the document custodian on a piecemeal basis, or the issuer may wait until all the documents for that loan file have been received and then forward the file to the document custodian. In the latter case, the issuer must forward a completed loan file to the document custodian immediately. The issuer may not wait until it has collected all documents relating to all loans in a pool or loan package before forwarding them to the document custodian. The documents that must be received and reviewed at final certification for each pooled mortgage are:

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- (1) the original recorded mortgage or other security instrument and, in the case of a modified mortgage, the original note, the modification agreement, and any required subordination agreement or title endorsement;
- (2) all original recorded interim assignments or clerk-certified copies;
- (3) a mortgagee title insurance policy or other evidence of title acceptable to FHA, VA, RHS, or PIH (not required for loans owned by the Secretary of HUD or for VA-Vendee loans if VA does not provide title insurance); and
- (4) original evidence of mortgage insurance or guaranty signed by FHA, VA, RHS, or PIH (not required for manufactured home loans).

(C) Recertification

Before completing the recertification on the back of the Scheduled of Pooled Mortgages, the document custodian must review the loan and pool or loan package documents in accordance with Sections 3-E, 4-E, 5-D, or 6-D of the Document Custodian Manual, as appropriate (Appendix V-1). The list of loans on the Schedule of Pooled Mortgages must be used as a control in determining that the documents properly relate to the pooled loans.

In connection with a pool or loan package recertification following a transfer of issuer responsibility, the document custodian must receive and review, in addition to the documents required for the final certification of a pool or loan package, the documents described in Section 21-8(C)(3) .

13-5: RELEASE OF DOCUMENTS TO ISSUER

Under the terms of the Master Custodial Agreement, documents may be released to the issuer from time to time in connection with servicing, including the satisfaction or foreclosure of mortgages. Only the issuer may request the release of documents. Issuers are authorized to request documents from the document custodian only if they are necessary in carrying out servicing actions. The document custodian may rely on the issuer's statements in this regard. Bulk releases of documents for an entire pool or loan package must be approved by Ginnie Mae.

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Section 13-5 (continued)

Chapter 7-A of the Document Custodian Manual (Appendix V-1) describes the permitted reasons for a document custodian to release documents.

The form HUD 11708, Request for Release of Documents (Appendix V-5), is used for releasing individual loan files or documents. Individual loan documents must be specified on the bottom of the form HUD 11708. A form HUD 11708 must be provided for each loan for which documents are requested from the document custodian. Blanket forms HUD 11708 are not acceptable.

The issuer may submit the form HUD 11708, either in hard copy form or using GinnieNET 5.2, as follows:

- (A) Submission in hard copy form:
 - (1) The issuer must prepare manually a form HUD 11708 (Appendix V-5) and deliver it to the document custodian.
 - (2) The document custodian must acknowledge the request form, retain the original, and return a signed copy to the issuer.
 - (3) The issuer must retain its copy as evidence of its compliance with the document request procedures.
 - (4) If released loan documents are returned to the document custodian (*i.e.*, the loan documents that were released are returned to the pool or loan package), the document custodian must verify that the documents meet the certification status of the pool or loan package and then sign the Return of Released Documents at the bottom of the form HUD 11708. A copy of the Return of Released Documents is returned to the issuer. Upon receipt and acceptance of the released documents, the document custodian must remove the form HUD 11708 from the custodial file.

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- (B) Submission using GinnieNET 5.2:
- (1) The issuer, using the instructions in the GinnieNET Issuer Guide, must prepare a form HUD 11708 and transmit it to the document custodian using GinnieNET 5.2.
 - (2) The document custodian must acknowledge receipt of the form HUD 11708 by affixing its electronic signature and transmit the acknowledged form HUD 11708 to the issuer using GinnieNET 5.2.
 - (3) The issuer must retain its copy as evidence of its compliance with the document request procedures. The issuer may retain a form HUD 11708 in electronic format or may print it out and place it in the appropriate file.
 - (4) The document custodian must retain a copy of the form HUD 11708. The document custodian may retain a form HUD 11708 in electronic format or may print it out and place it in the appropriate custodial file.
 - (5) If an issuer or document custodian retains a form HUD 11708 in electronic form, it must be able to provide the form in printed, hard copy form at Ginnie Mae's request.
 - (6) If released loan documents are returned to the document custodian (*i.e.*, the loan documents that were released are returned to the pool or loan package), the document custodian must verify that the documents meet the certification status of the pool or loan package and then sign electronically the Return of Released Documents at the bottom of the form HUD 11708. The document custodian must transmit the executed Return of Released Documents to the issuer using GinnieNET 5.2. Upon receipt and acceptance of the released documents, the document custodian must remove the form HUD 11708 from the custodial file.

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Section 13-5 (continued)

Issuers holding custodial documents must meet the same standards for safekeeping documents that apply to document custodians.

13-6: ISSUER'S REVIEW OF DOCUMENTS

Any routine reviews of custodial documents by the issuer's auditors or staff must be conducted on the premises of the document custodian while the documents are under the control of the document custodian.

13-7: INVENTORY ACCOUNTING

The document custodian must maintain control of loan documents for the life of the pool or loan package in order to preserve the interests of the security holders, Ginnie Mae, and the issuer. This section and Section 7-G of the Document Custodian Manual (Appendix V-1) describe the special inventory accounting requirements that must be followed for each issuer for which the document custodian is responsible.

(A) Issuer Master File

The document custodian must maintain an Issuer Master File for each issuer that includes at least the following information:

- (1) the Issuer Custodial Register (described below);
- (2) any blanket legal opinions;
- (3) a copy of the issuer's corporate resolution for a name change (see Section 13-9);
- (4) any other issuer-level documents in the document custodian's possession; and
- (5) the Master Custodial Agreement, form HUD 11715 (Appendix III-4).

(B) Issuer Custodial Register

The document custodian must maintain a register for each issuer that contains at least the following information:

- (1) a listing in pool number order of pools and loan packages currently in custody;
- (2) for each pool or loan package, the due dates and actual dates for final certification and recertification; and

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- (3) the total number of pools and loan packages in custody.

(C) Pool or Loan Package Master File

The document custodian must maintain for each pool or loan package covered under a Master Custodial Agreement a single Pool Master File that, at a minimum, contains copies of the following documents:

- (1) the Master Custodial Agreement, form HUD 11715 (Appendix III-4) (not required if maintained in the Issuer Master File);
- (2) the Schedule of Pooled Mortgages, form HUD 11706 (Appendix III-7);
- (3) the Certification and Agreement, form HUD 11711B (Appendix III-5);
- (4) the Release of Security Interest, form HUD 11711A (Appendix III-5) , if applicable;
- (5) original blanket interim assignments, with a copy included in each individual loan file to which the blanket applies;
- (6) copies of opinions from qualified outside legal counsel (originals to be maintained in the Issuer Master File);
- (7) original pool or loan package level waiver letters from Ginnie Mae, if any; and
- (8) all Requests for Release of Documents, form HUD 11708 (Appendix V-5) for liquidated release codes. Forms HUD 11708 for the nonliquidation release codes may be retained in the individual loan files or a nonliquidated release file for released loan documents. To the extent that forms HUD 11708 have been submitted using GinnieNET 5.2 and are maintained by the document custodian in electronic rather than hard copy form, it is sufficient that the document custodian be able promptly to provide at Ginnie Mae's request a printed, hard copy form of each electronically maintained form HUD 11708.

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(D) Annual Inventory

At least annually, the document custodian must perform an inventory of all pools and loan packages held for each issuer in accordance with the procedures specified in Section 7-G of the Document Custodian Manual (Appendix V-1).

The document custodian must provide each issuer it serves with a written summary of the results of the annual inventory. Any discrepancies must be identified and resolved within 120 days of submitting the inventory summary letter to the issuer. After that time, all unresolved differences must be reported immediately by the document custodian to Ginnie Mae's Office of Customer Service or Office of Multifamily Programs, as appropriate (see Addresses).

(E) Nonliquidation Release Listing or File

The issuer and the document custodian must each maintain a nonliquidation release inventory comprised of a listing or file of all Requests for Release of Documents, form HUD 11708 (Appendix V-5) submitted on the basis of the nonliquidation reason code. If a file is maintained, copies of the forms must be kept in chronological order by document release date. If a listing is maintained, the following information must be included:

- (1) pool or loan package number;
- (2) FHA/VA/RHS/§ 184 case number or loan number;
and
- (3) document release date.

Loan files or documents released to an issuer must be returned to the document custodian within 180 days. When a loan file or document has been released for more than 180 days, it is overdue. The document custodian must notify the issuer of overdue documents every 90 days. The notification must be in writing and be documented in the inventory or file. The issuer must also maintain a nonliquidation release inventory.

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13-8: MISSING DOCUMENT RESOLUTION

Lost or missing documents are documents that are known to have existed but that are currently not in the possession of the issuer, document custodian, or an agent such as a foreclosure attorney or subcontract servicer. This section describes briefly the responsibilities of the issuer and the document custodian regarding missing documents.

The description that follows is not designed to be comprehensive and cannot be construed as a substitute for the advice of qualified legal counsel.

(A) Document Custodian's Responsibilities

When a document custodian becomes aware that a required document is missing, it is the document custodian's responsibility to send the issuer, within 30 days, a written lost document notification requesting timely resolution by the issuer in accordance with the requirements of Section 7-I of the Document Custodian Manual (Appendix V-1).

(B) Issuer's Responsibilities

The issuer must make a timely submission of the replacement document.

If the missing document relates to a loan in a pool or loan package that has not been finally certified, the issuer must replace the document prior to completion of the final certification, which must be completed within 12 months of the issue date of the securities.

If final certification or recertification has occurred, the loan document must be replaced within 90 days of the date of the written notice from the document custodian. If the document is not replaced within 90 days, the document custodian must notify Ginnie Mae's Office of Customer Service or Office of Multifamily Programs, as appropriate (see Addresses), and the affected pool or loan package will be considered uncertified until the missing loan document has been replaced.

If the missing document is a note for which a lost instrument bond with unlimited liability is required, the issuer must submit an original lost instrument bond with unlimited liability to the document custodian in compliance with the requirements in Section 7-I of the Document Custodian Manual (Appendix V-1). The form of lost instrument bond with unlimited liability can be found at Appendix I to the Document Custodian Manual.

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13-9: ISSUER CORPORATE NAME CHANGE

In the event of an issuer corporate name change, the issuer must provide the document custodian within 30 days of the name change a copy of the corporate resolution adopting the change. The resolution will be maintained by the document custodian in the Issuer Master File.

13-10: TRANSFER OF DOCUMENT CUSTODIAN RESPONSIBILITY

An issuer seeking to transfer document custodial responsibilities must submit a written request to, and receive Ginnie Mae's prior written approval from, the PPA (see Addresses).

(A) Issuer's Transfer Request

The written request must specify the reasons for the transfer. If the transfer includes all of the issuer's pools and loan packages, the request must include an original, executed Master Custodial Agreement, form HUD 11715 (Appendix III-4), executed by the issuer and the new document custodian and attach a separate exhibit listing the numbers of all of the pools and loan packages.

If the issuer wishes to transfer to the new document custodian documents for fewer than all of the issuer's pools and loan packages, it must submit an original, executed form HUD 11715 for the new document custodian and an original, executed form HUD 11715 for each existing document custodian that will be retained following the transfer, each with an exhibit attached listing the numbers of the pool and loan packages for which the related document custodian will be responsible after the transfer has been made.

(B) Ginnie Mae Approval

Upon receipt of the letter and properly executed Master Custodial Agreement, form HUD 11715 (Appendix III-4), the PPA will indicate Ginnie Mae's approval in writing. The document custodian may not release documents to the new document custodian until it has received Ginnie Mae's written approval.

(C) Responsibility for Documents

The current document custodian is responsible for control of the documents until they are released to the new document custodian. The documents must be released directly to the new document custodian, not to the issuer. The new document custodian is responsible for the safe transfer of the documents to its facilities. Before releasing the documents, the document custodian must verify that Ginnie Mae has approved the transfer by obtaining from the issuer a copy of the PPA's written approval.

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(D) Delivery of Requests for Release of Documents

Upon Ginnie Mae's written approval of the transfer, the prior document custodian must deliver all Requests for Release of Documents, form HUD 11708 (Appendix V-5), in its possession to the new document custodian. The prior document custodian must transfer these forms in the same format, either hard copy or using GinnieNET 5.2, in which it received them. The new document custodian must use the forms in its review of the document files for completeness and to complete the new pool or loan package final certification or recertification.

(E) Document Custodian's Notice of Release

When the documents are released to the new document custodian, the current document custodian must write the following notice at the end of the separate exhibit of pool and loan package numbers:

All documents held by (name of existing Document Custodian) pertaining to Ginnie Mae pool number(s) listed on this exhibit have been released to (name of substitute Document Custodian). The release was made to (name of person representing substitute Document Custodian) and was completed on (date).

(F) New Document Custodian's Review

The new document custodian must carefully review the Schedule of Pooled Mortgages in the possession of the prior document custodian to determine that it has received all required documents relating to all loan and pool or loan package documents in each affected pool or loan package.

(G) New Document Custodian's Certification Responsibilities

Each pool or loan package transferred to a new document custodian before final certification must receive final certification and recertification in compliance with the requirements of Section 11-5(C) on or before the time final certification is due for that pool or loan package. Each pool or loan package transferred to a new document custodian after final certification has been received must be recertified in compliance with the requirements of Section 11-5(D) within 12 months after the date of written approval of the transfer by the PPA for Ginnie Mae.

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(H) Updated Schedule of Pooled Mortgages

Upon completion of the transfer, the issuer or new document custodian must submit to the PPA for each pool or loan package an updated copy of the original Schedule of Pooled Mortgages, form HUD 11706 (Appendix III-7), marked to indicate mortgages that have been satisfied. The final certification or recertification must be signed by the new issuer and document custodian.

A copy of the original Schedule of Pooled Mortgages, form HUD 11706, with manual lining out of terminated loans is acceptable. The final certification or recertification, however, must have original signatures for both the issuer and new document custodian. The issuer and the new document custodian may accomplish this by signing a new Schedule of Pooled Mortgages, form HUD 11706, that refers to the list of mortgages on the modified copy.

13-11: TERMINATION OF POOL

A Ginnie Mae I pool and a Ginnie Mae II custom pool may be terminated prior to the final maturity date of the outstanding securities in accordance with the provisions of Section 20-3. When such a termination has been processed by Ginnie Mae, Ginnie Mae will notify the document custodian and authorize the release of the mortgage documents to the issuer.

A multiple issuer pool consisting of more than one loan package may not be terminated prior to the final maturity date.

13-12: MATURITY OF POOL

A pool matures when all the loans in the pool have been either paid in full, foreclosed, or otherwise liquidated.

The issuer must submit a Request for Release of Documents, form HUD 11708 (Appendix V-5), to the document custodian for the release of documents. Upon verifying with the issuer that the pool security balance is zero, the document custodian must return the remaining pool documents to the issuer for appropriate action.

The document custodian must note the final removal of the loan documents from its possession on the Schedule of Pooled Mortgages or on the automated inventory control record.

